

FILED '09 JUL 07 14:13 USDC-ORE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

ANDREW DAVID EASTER,

Plaintiff,

Civil No. 08-6214-TC

v.

ORDER

TIM MUELLER, et al.,

Defendants.

COFFIN., Magistrate Judge.

The following motions are before the court:

- 1.) Plaintiff's Motion to compel discovery (#21): Defendants have not responded to the motion to compel what appears to be discoverable material. Accordingly, defendants are allowed 21 days from the date of this order to show cause why plaintiff's motion should not be allowed. The clerk is requested to re-set plaintiff's motion after the expiration of 21 days.
- 2.) Plaintiff's Motion for Leave to Join Claims (#22): Plaintiff's motion is construed as a motion to file an amended (supplemental) complaint.

Ordinarily, leave to amend will not be allowed after a

motion for summary judgment has been filed.

In this case, plaintiff's motion was filed before defendants' motion for summary judgment. Plaintiff's proposed supplemental claims are separate and distinct from the claims subject to defendants' motion.

It makes sense to litigate all of plaintiff's complaints against the Linn County Jail in one proceeding and defendants have not opposed plaintiff's motion.

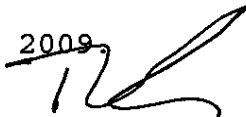
Therefore, plaintiff's Motion (#22) is allowed. The clerk is directed to file the proposed amended complaint submitted with plaintiff's motion. The complaint will be construed as a supplemental complaint. In other words, the claim alleged in plaintiff's original complaint (based on plaintiff's disagreement about his prescribed medication) although not re-alleged in the proposed amended complaint is still considered at issue.

3.) Defendants' Motion for Summary Judgment (#23) is denied without prejudice to request reconsideration after the discovery issue (motion to compel discovery) has been resolved.

4.) Plaintiff's Motion to Appoint Expert Witness (#31) is denied.

IT IS SO ORDERED

DATED this 7 day of July, 2009

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Thomas M. Coffin  
United State Magistrate Judge